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CHARLES ELMORE C

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951

No. 703

STUART LABORATORIES, INC. and WILLIAM B. HUGLE,

Petitioners,

against

UNION CARBIDE AND CARBON CORPORATION,

Respondent.

Motion

Now come the petitioners above-named by their counsel and move for leave to have their petition for certiorari considered upon the certified transcript of record, the original record and exhibits, without being required to print the same, and show to the Court in support of their motion as follows:

The petitioner Stuart Laboratories, Inc. is in a bankrupt condition; the individual petitioner William B. Hugle has no assets of any substantial value. He has a wife and two small children. He is twenty-four years old and has been working for a small weekly salary as an employee in scientific research. For about two years, from the latter part of 1949, he was a vice-president of Stuart Laboratories, Inc. at a salary of from fifty to seventy-five dollars a week. When he left the Company, it owed him for many months back wages.

The bankrupt condition of the petitioner corporation came about through the action of the respondent The

Linde Air Products Company, now Union Carbide and Carbon Corporation, whose assets are over a billion dollars and whose net profits have recently been in the neighborhood of one hundred million dollars a year.

In March, 1950, the respondent served infringement notices upon the petitioners and upon their distributors. In addition to this suit, it commenced an infringement suit against petitioners' principal distributor in the United States District Court for the Southern District of New York. Thereafter, such distributors refused to sell the products of the corporate petitioner, which products consisted of star rubies and star sapphires, causing the Company's financial condition to go from bad to worse. Aside from its machinery, equipment and building, the Company did not have any property. It had no liquid assets with which to meet running expenses. It had given a chattel mortgage upon its machinery, equipment and building, which soon became in default. The only reason that it is not in bankruptcy is that it has not been worthwhile for any creditor to take action.

The Court is respectfully referred to our motion for leave to file typewritten brief and appendices in the record certified by the Court of Appeals, which was accompanied by an affidavit of William B. Hugle setting forth the foregoing facts and others.

By reason of the foregoing facts, both petitioners are completely unable to pay for the printing of the record, in which our appendix containing testimony consists of five or six hundred pages. The non-physical exhibits are contained in our appendices in photostatic form, and their printing if required, would be very expensive. In addition there are the proceedings in the Court of Appeals. Moreover, some of the most important exhibits in the case are physical exhibits consisting of gem stones and models which cannot be typographically reproduced.

It is believed that the Court can conveniently consider our petition for certiorari on the typewritten record and exhibits because the questions presented are clearly supported by the express admissions of respondent's witnesses and employees, coupled with the admitted acts of respondent (Petition, pp. 9-10, in particular), and petitioners' statements in respect thereto, together with the quotations from the testimony, can very easily be checked from the typewritten record. Only a very small part of this record is, in fact, necessary for this Court to consider upon our petition.

Questions of the greatest importance to the public, as well as to petitioner, are involved in our petition. Unless this motion is granted, petitioners will be unable to press them.

It is further respectfully requested that the service required by Rule 38, Sub. 3, be directed to be made by serving a copy of the petition and a list of all of the papers contained in the record certified to this Court by the Court of Appeals, instead of the printed papers themselves, all of which papers respondent has copies of.

CONCLUSION

It is respectfully prayed that this motion be granted in all respects.

Dated: April 10, 1952.

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